The Assam Municipal (Amendment) Act, 2004

Act 6 of 2005

Keyword(s):
Carriage, Cart, Compost Mature, Conservancy, Municipal Market, Municipality

Amendments appended: 8 of 2011, 12 of 2012

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ASSAM ACT NO. VI OF 2005

(Received the assent of the Governor on 22nd February, 2005)

THE ASSAM MUNICIPAL (Amendment) ACT, 2004.

AN

ACT

further to amendment the Assam Municipal Act, 1956.

Preamble

Whereas it is expedient further to amend the Assam Municipal Act, 1956, hereinafter referred to as the principal Act, in the manner hereafter appearing ;

Assam Act XV of 1965.

It is hereby enacted in the Fifty-fifth Year of the Republic of India as follows :-

Short title, extent and commencement.

1. (1) This Act may be called the Assam Municipal (Amendment) Act, 2004.

(2) It shall have the like extent as the principal Act.

(3) It shall be deemed to have come into force on and from the 20th October, 2003.

Insertion in section 15.

2. In the principal Act, in section 15, in sub-section (1), after clause (IX), the following clause shall be inserted, namely :-

"(X) fails to furnish a declaration in the form of an Affidavit in the format, as appended in the Fourth Schedule, at the time of filling nomination paper containing the following information which shall be made public by the respective returning officers by displaying a copy of the Affidavit on the Notice Board of his office :

(a) Whether the candidate had been convicted/ acquitted/ discharged of any criminal offence in the past and if convicted, whether he was punished with imprisonment or fine.

(b) prior to six month of filling of nomination whether the candidate is accused in any pending case of any offence punishable with imprisonment for a term of two years or more, and in which charge is framed or congnizance has been taken by the Court. If so, the details thereof,

(c) the assets (immovable, movable, bank balance etc.) of a candidate and of his/her spouse and, that of dependants,

(d) liabilities, if any, particularly whether there are any overdues of any public Financial Institutions or Government dues ;

(e) the educational qualifications of candidate";

Insertion a new Schedule.

3. In the principal Act, after the existing "The third Schedule" the following "Fourth Schedule" shall be inserted, namely :-

"FOURTH SCHEDULE"

Affidavit to be furnished by candidate along with nomination paper before the Returning Officer for election as Commissioner of a Municipal Board.

District.....Ward No..... Name, if any.....

I, ...son/daughter/wife of.....

age..... years, resident of

candidate at the above election, do hereby solemnly affirm and state on oath as under :-

(Strike out whichever not applicable)

(1) I have in the past, been convicted of criminal of offence in the following case (s) and the details are as under :-

(i) Case No.

(ii) Section of the Act and description of the offence for which convicted.

(iii) Date(s) of conviction.

(iv) Court(s) by which convicted,

(v) Punishment imposed (indicate period of imprisonment awarded and/or quantum of fine imposed).

(vi) Details of appeals/revision, etc. filed against above conviction (s),

(2) That I have in the past been discharges/acquitted in the following cases :-

(i) Section of the Act description of the offence with which charges.

(ii) Case No.

(iii) Name of the Court by which acquitted/discharged,

(iv) Date of acquittal/discharge,

(v) Details of appeal (s) /application (s) for revision/review, if any, filed against above acquittal/discharge.

(3) That I have, in the period ending six months prior to the date of filling the present nomination, been accused of the following offences punishable with imprisonment with two years or more, and in which a charge has been framed or congnizance taken by the Court as indicated hereunder :-

(Note :- This excludes the cases mentioned in (1) and (2) above)

(i) Section of the Act and description of the offence with which charges/ congnizance taken.

(ii) The Court which has framed the charge/taken congnizance.

(iii) Case No.

(iv) Date of order of the Court framing charge/taking cognizance.

(v) Details of appeal (s) /application (s) for revision, etc., if any, filed against above order framing charge/taking cognizance.

(4) That I give herein below the details of, the assets (Immovable, Movable, Bank balance, etc.) of myself, my spouse and dependents.

A. Details of moveable assests :-

Assets in joint name indicating the extent of joint ownership will also have to be given :-

Sl. No.	Description	Self	Spouse(s) Name(s)	Dependent-1 Name :	Dependent-2 Name :	Dependent-3 Name :	etc.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	

(i) Cash,
(ii) Deposit in Banks, Financial Institutions and Non-Banking Financial Companies,
(iii) Bonds Debentures and shares in companies.
(iv) Other Financial Instruments, NSS, Postal Savings, LIC Policies, etc.,
(v) Motor Vehicles (Details of make etc).
(vi) Jewellery (give details of weight and value).
(vii) Other assets such as values of claim/ in terests.

Note :- 1. Dependent here means the income of the cand

2. Value of bonds/Shares/I in Stock Exchange in books in the cases of

B. Details of Immovable Assets :

(Note :- Properties in Joi joint ownership

Sl. No.	Description	Self	Spouse(s)	D N
(1)	(2)	(3)	(4)	

1. Agricultural Land
Location(s)
Survey number(s)
Extent (Total measurement)
Current market value).
9 (ii) None- Agricultural Land
-Location(s)
-Survey/door number(s)
- Extent (Total measurement)
-Current market value.
(iii) Building (Commercial and residential,
Location (s)
Survey/door number (s)
-Extent (Total measurement)
-Current market value.
(iv) Houses/Apartments, etc.
-Location (s)
- Survey/ door number (s)
-Extent (Total measurement)
-Current market value.
(v) Other (Such as interest in property).

5. I give herein below the details o institutions and Governme

(Note :- Please give separate det

Sl. No.	Description	Name and address of Bank/Financial Institution (s) Department (s)	Amount Outstanding as on -
1	2	3	4
	(a) (i) Loans from Bank (ii)Loans from Financial Institutions.		
	(iii) Government dues (Other than income tax and wealth tax) (No. Due Certificate to be enclosed in case holding or having held any public office).		
	(b)(i) Income tax including surchage (Also indicate the assessment year upto which income tax return filed. Give also permanent Account Number (PAN).		
	(ii) Wealth Tax (Also indicate the assessment year upto which wealth tax return filed.		
	(iii) Sale tax only in case of Proprietory business).		
	(iv) Property Tax.		

6. My Educational Qualifications are as follows :
(Give details of school and university education)
(Name of School/College/University and the year in which the course was completed should also be given).

DEPONENT

VERIFICATION

I, the deponent above-named, do hereby verify and declare that the contents of this declaration are true/correct to the best of my knowledge and belief, no part of its false and nothing materials has been cancelled there-from.

Verified at.....this the.....
..... day of 200....

DEPONENT

Verified before me

Place.....
Date

(Signature of Verifying Authority with seal)

M. K. DEKA,
Commissioner & Secy. to the Govt. of Assam,
Legislative Department, Dispur.

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অসম ৰাজপত্ৰ

सत्यमेव जयते

THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্ত্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT : : LEGISLATIVE BRANCH

NOTIFICATION

The 24th May, 2011

No. LGL.135/2003/44: The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. VIII OF 2011

(Received the assent of the Governor on 8th March, 2011)

THE ASSAM MUNICIPAL (AMENDMENT) ACT, 2011

AN

ACT

further to amend the Assam Municipal Act,1956.

Preamble

Whereas it is expedient further to amend the Assam Municipal Act, 1956, hereinafter referred to as the principal Act, in the manner hereinafter appearing; Assam Act XV of 1957

It is hereby enacted in the Sixty-second Year of the Republic of India as follows :-

Short title, extent and commence-ment

1. (1) This Act may be called the Assam Municipal (Amendment) Act,2011.

(2) It shall have the like extent as the principal Act.

(3) It shall come into force at once.

Amendment of section 11

2. In the principal Act, in section 11, in sub-section (3), in clause(d), in the first and second proviso, for the words "not less than one-third", the words, "fifty percent" shall be substituted.

Amendment of section 26

3. In the principal Act, in section 26, sub-section (5) shall be deleted.

Amendment of section 33

4. In the principal Act, in section 33, in sub-section (1), for the figure "30", the figure "50" shall be substituted.

Substitution of section 42

5. In the principal Act, for section 42, the following shall be substituted, namely :-

"42. Remuneration of the Chairman, Vice-Chairman and Elected Commissioners.-

(1) The Chairman, Vice-Chairman, and elected Commissioners of a Municipal Board or a Town Committee shall receive such remunerations as may be determined by the Board at a meeting, depending on the resources of the respective Municipal Board and the Town Committee out of the Municipal Fund constituted under section 58 of this Act subject to the provisions of sub-section (3):

Provided that the remuneration so determined by the Board shall not exceed rupees ten thousand in case of Chairman, rupees seven thousand in case of Vice-Chairman and rupees five thousand in case of elected Commissioners of a Municipal Board or a Town Committee and the remuneration so determined shall not be paid to the Chairman, Vice-Chairman and the elected Commissioners without the prior approval of the Government.

(2) The Chairman and the Vice-Chairman of the Municipal Board or the Town Committee shall not be entitled for any other kind of pecuniary benefit out of the Municipal Fund, except the Travelling Allowance and the Daily Allowance subject to the provisions of sub-section (3) for the purpose of visiting the sub-divisional and District Head Quarters and the State Capital for official duties at the scale as may be fixed for a Senior Grade officer of the State Government from time to time :

Provided that except the Chairman and Vice-Chairman no other elected Commissioner of a Municipal Board or Town Committee shall be entitled to receive the facilities of Travelling Allowance and Daily Allowance.

(3) Notwithstanding anything contained in sub-sections (1) and (2),any amount of money sanctioned by the State Government as grants-in-aid which is credited to the Municipal Fund under section 58 and any other sum sanctioned by the Central Government for implementation of any scheme, shall not be spent for the purpose of giving remuneration. Travelling Allowance to the Chairman, Vice-Chairman or other elected Commissioners, as the case may be."

Substitution of section 43-A

6. In the principal Act, for section 43-A, the following shall be substituted, namely :-

"43-A. Annual Budget .- A Municipal Board or a Town Committee shall pass their Annual Budget estimates as per the format as may be prescribed, for the next financial year, before the last day of February of the preceding financial year, in the Board at a meeting and submit the same to the Director for his approval, which shall be approved by the Director before the 31st day of March of the preceding financial year. If any Municipal Board or Town Committee fails to submit the Annual Budget estimates duly passed by the Board in a meeting, to the Director within 31st day of March of the preceding financial year, shall have no claim for getting any grants-in-aid from the State Government during the next financial year. Before the end of the month of April every year, the Director shall submit to the Government a list of defaulting Municipal Boards and Town Committees who have not submitted the Annual Budget estimate within the time as stipulated in this section."

Amendment of section 50

7. In the principal Act, in section 50,-

(i) in sub-section (1), in between the word "establishment" and punctuation mark ":", the words "subject to the staffing pattern as may be determined by the Government from time to time" shall be inserted ;

(ii) in sub-section (1), in the first proviso, the words "if the monthly salary of the office does not carry more than fifty rupees or a salary raising by periodical increments to more than fifty rupees" shall be deleted ;

(iii) in sub-section (1), in the second proviso, in between the words "officer" and "whose", the words "or employees" shall be inserted.

Substitution of section 53

8. In the principal Act, for section 53, the following shall be substituted, namely :-

"53. Appointment of Executive Officer.- (1) The State Government shall appoint an Executive Officer for each and every Municipal Board and Town Committee and shall bear the expenditure in respect of pay and allowances of such Executive Officers. In the Municipalities having a population of one Lakh or more, an Officer of the level of Additional Deputy Commissioner shall be posted as Executive Officer and in all other cases, an Officer not below the rank of a Revenue Circle Officer shall be posted as an Executive Officer. The Government may put one Executive Officer in the charge of more than one Municipal Board or a Town Committee, if contiguously situated in the same District or Sub-Division, provided that the distance of the two should not be more than twenty kilometers.

(2) The Executive Officer shall function under the overall control of the Board and under the direct supervision of the Chairman. He shall be further subject to the directions issued to him by the Director or the State Government. All financial matters, particularly those relating to the implementation of schemes by the Municipality funded by the Government of India or the State

Government, shall invariably be routed through him after due scrutiny and he shall remain responsible for any act of omission or commission. So far as the functions under the provisions of the Act are concerned, the Executive Officer shall render all assistance to the Chairman and the Board."

Insertion of section 53A

9. In the principal Act, after section 53, the following new section 53A shall be inserted, namely :-

"53A. Transfer of function, fund and functionaries as provided under the Twelfth Schedule of the Constitution.-

(1)The State Government in appropriate Department(s) shall make arrangement for transfer of function, fund and functionaries to the Municipalities as provided under the Twelfth Schedule of the Constitution. The arrangement mentioned above shall be of the following nature:-

(i) The subjects of Urban Planning including Town Planning, regulation of land use and construction of buildings, slum improvement and up gradation, shall stand transferred to the respective Municipalities. The Master Plan prepared for an area and implementation of those within the notified area of a Municipality shall only be transferred to the concerned Municipality by the Urban Development Department. The services of an Official of the Directorate of Town & Country Planning, Assam shall be placed partially at the disposal of the concerned Municipality or a contiguous group of Municipalities for this purpose. Taking up and implementation of the schemes for slum improvement and up gradation shall wholly be a subject of the Municipalities. The Board at a meeting of every Municipality shall take decision regarding any matter including incurring expenditure relating to the subjects mentioned in this clause. The concerned officials mentioned in this clause shall implement the decision taken by the Board at a meeting, subject to the conformity of any law, rule or executive instruction issued by the Government in this regard from time to time.

(ii) The subject of roads and bridges shall stand transferred to the respective Municipalities. The services of an official of the appropriate level alongwith the required establishment under such official of the Roads Wings of the Public Works Department, Assam, shall be placed by the Public Works Department partially at the disposal of the concerned Municipality or a contiguous group of Municipalities for this purpose. Taking up of the schemes within the notified area of a Municipality relating to the subject, in consultation with the officials mentioned above and the implementation of the same under the technical supervision of the said officials, shall be decided by the Board at a meeting of every Municipality. Such a decision may include the expenditure that may be incurred for implementation of any scheme, so taken up, with due consultation and under the technical supervision of the officials of the Department mentioned above in this clause. The concerned officials mentioned in this clause shall implement the decision taken by the Board at a meeting, subject to the conformity of any law, rule or any established procedure followed by the Department in this regard.

(iii) The subject of Urban Forestry, protection of the environment and promotion of ecological aspects, shall stand transferred to the respective Municipalities. The services of an official of the appropriate level alongwith the required establishment under such official of the Forest Department, Assam, shall be placed by the Forest Department partially at the disposal of the concerned Municipality or a contiguous group of Municipalities for this purpose. Taking up of the schemes within the notified area of a Municipality relating to this subject in consultation with the officials mentioned above and the implementation of the same under the technical supervision of the said officials, shall be decided by the Board at a meeting of every Municipality. Such a decision may include the expenditure that may be incurred for implementation of any scheme, so taken up, with due consultation and under the technical supervision of the officials of the Department mentioned in this clause. The concerned officials mentioned in this clause shall implement the decision taken by the Board at a meeting, subject to the conformity of any law, rule or executive instruction issued by the Government in this regard.

(iv) The subject of Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded, shall stand transferred to the respective Municipalities. The services of an official of the appropriate level alongwith the required establishment under such official of the Social Welfare Department, Assam, shall be placed by the Social Welfare Department partially at the disposal of the concerned Municipality or a contiguous group of Municipalities for this purpose. Taking up of the schemes with in the notified area of a Municipality relating to this subject, in consultation with the officials mentioned in this clause and the implementation of the same under the supervision of the said officials, shall be decided by the Board at a meeting of every Municipality. Such a decision may include the expenditure that may be incurred for implementation of any scheme, so taken up, with due consultation and under the supervision of the officials of the Department mentioned in this clause. The concerned officials mentioned in this clause shall implement the decision taken by the Board at a meeting, subject to the conformity of any law, rule or executive instruction issued by the Government in this regard.

(v) The subject of Vital Statistics including registration of Births and Deaths, shall stand transferred to the respective Municipalities, subject to the relevant provisions of law governing the matter. The services of an official of the appropriate level alongwith the required establishment under such official of the Health & Family Welfare Department, Assam, shall be placed by the Health & Family Welfare Department partially at the disposal of the concerned Municipality or a contiguous group of Municipalities for this purpose. Implementation of this matter within the notified area of a Municipality, in consultation with the officials mentioned in this clause shall be decided by the Board at a meeting of every Municipality. Such a decision may include the expenditure that may be incurred for implementation of this subject in the notified area of a Municipality, with due consultation and under the technical supervision of the officials of the Department mentioned in this clause. The concerned officials mentioned in this clause shall implement the decision taken by the Board at a meeting, subject to conformity to the provisions contained in this regard in the Registration of Births and Deaths Act,1969 and the rules framed there under.

Act No.18 of 1969

(vi) The subjects of Planning for economic and social development, Urban poverty alleviation, Water Supply for domestic, industrial and commercial purposes, Public Health, Sanitation, Conservancy, Solid Waste Management, provision of Urban amenities and facilities such as parks, gardens, play grounds, promotion of cultural, educational and aesthetic aspects, burials and burial grounds, crematoriums, cremation grounds, electric cremation grounds, electric crematoriums, cattle pounds, prevention of cruelty to animals, public amenities including street lighting, parking lots, bus stops and public conveniences, regulation of slaughter houses and tanneries, shall be the inherent subjects to be implemented by a Municipality and for which the schemes may be formulated from time to time by the Board at a meeting of every Municipality and implemented out of their own fund or submitted to the Government for implementation by them under any centrally sponsored or central sector scheme or out of State Plan or Non-Plan fund, with the technical assistance, guidance and supervision of the officials serving under the Urban Development Department of the State and the officials serving under the respective Municipalities. For Urban poverty alleviation, mentioned in this clause, an Urban poverty cell shall be opened in every Municipality for giving effect to the guidelines issued by the Government in this regard from time to time.

(2) There shall be a Committee consisting of the following to monitor the matter of early and smooth transfer of fund, function and functionaries to the Municipalities, as mentioned in sub-section(1):-

(i)	Minister in charge, Urban Development Department Dispur.	-	Chairman.
(ii)	Senior most Secretary of the Urban Development Department, Government of Assam.	-	Vice-Chairman
(iii)	Chief Engineer, Public Works Department (Roads)	-	Member
(iv)	Chief Conservator of Forests (Social Forestry)	-	Member
(v)	Director of Health Services, Assam	-	Member
(vi)	Director, Town & Country Planning.	-	Member
(vii)	Director, Social Welfare, Assam	-	Member
(viii)	Managing Director, Assam State Housing Board.	-	Member
(ix)	Managing Director, Assam Urban Water Supply and Sewerage Board.	-	Member
(x)	Director of Municipal Administration, Assam.	-	Member Secretary

(3) The Committee shall meet from time to time to monitor the progress of the transfer of fund, function and functionaries to the Municipalities and to suggest any steps as may be necessary on the part of the respective Department for effective implementation of this section.

Amendment of section 61

10. In the principal Act, in section 61, in the first paragraph, for the words appearing after the words "Municipal fund", the following shall be substituted, namely :-

"or from any account opened separately for a scheme under the specific instruction of the Government, shall be signed by the Chairman and the Executive Officer".

Amendment of section 64

11. In the principal Act, in section 64, in sub-section (2), in the first paragraph, in between the words "Vice Chairman" and the punctuation mark ",", the words "and the Executive Officer" shall be inserted.

Insertion of new chapter IVA

12. In the principal Act, after section 67, the following new chapter IVA consisting of sections 67A to 67H, shall be inserted :-

"Chapter IVA
Municipal Audit

67A. Maintenance of Accounts. – The Chief Municipal Officer shall prepare and maintain accounts of receipts and expenditure of the Municipality for a year in such Form and in such manner, as may be prescribed.

Explanation:- For the purposes of this Chapter, "the Chief Municipal Officer" shall mean the Executive Officer posted in a Municipality and in case of vacancy in the said post, the Chairman of a Municipal Board or Town Committee, as the case may be. The year shall mean the Financial Year.

67B. Financial Statement. – (1) The Chief Municipal Officer shall, within four months of the close of a year, cause to be prepared a financial statement containing an income and expenditure account and a receipt and payment account for the preceding year in respect of the accounts of the Municipality.

(2) The Form of the financial statement and the manner in which the financial statement shall be prepared, shall be such as may be prescribed.

67C. Balance Sheet. – (1) The Chief Municipal Officer shall within four months from the date of closing of a year, cause to be prepared a Balance Sheet of the assets and the liabilities of Municipality for the preceding year.

(2) The form of the Balance Sheet and the manner in which the Balance Sheet shall be prepared shall be such as may be prescribed.

67D. Submission of Financial Statement and Balance Sheet to the Auditor.– The Financial Statement prepared under Section 67B and the Balance Sheet of the assets and liabilities prepared under Section 67C shall be placed by the Chief Municipal Officer before the Board of the Municipality, which after examination of the same, shall adopt and remit the same to the Auditor.

Explanation :- For the purpose of this Chapter "the Auditor" shall mean the Director of Audit (Local Fund), Assam or any officer authorised by him in this behalf.

67E. Power of the Auditor. – (1) The Municipal Accounts as contained in the financial statement including the accounts of specific funds, if any, and the balance sheet shall be examined and audited by the Auditor.

(2) The Comptroller & Auditor General of India (C & AG) shall provide Technical Guidance and Supervision (TGS) over the proper maintenance of accounts and audit of the Municipalities.

Explanation:- The TGS over Municipalities by the C & AG of India shall include - Providing of guidance regarding maintenance of accounts, auditing standards, certification, guidelines, training for capacity building, comments on accounts and test audit of municipalities selected as a representative sample.

(3) The C&AG shall prepared an Annual Technical Inspection Report based on the TGS and the test check of the accounts of the Municipalities to be placed before the Board of the respective Municipality.

(4) The C&AG may exercise at his discretion, the right to report to the State Legislature the results of such test audit.

(5) The Chief Municipal Officer shall submit such further accounts to the Auditor and the C&AG as may be required.

(6) The Auditor may -

(i) require by a notice, in writing, the production before him, or before any officer subordinate to him, of any document which he considers necessary for the proper conduct of the audit;

(ii) require by a notice, in writing, any person accountable for, or having the custody or control of any document, cash or article, to appear in person before him or before any officer subordinate to him;

(iii) require any person so appearing before him, or before any officer subordinate to him, to make or sign a declaration with respect to such document, cash or article or to answer any question or prepare and submit any statement and cause physical verification of any stock of articles in course of examination of accounts.

(7) The Auditor or the officer subordinate to him, may report as regards any item of accounts which appears to him to be contrary to the provisions of this Act, to the Board of the Municipality.

(8) The Board of the Municipality at a meeting shall consider the report of the Auditor alongwith test audit report of the C&AG as early as possible and shall, if necessary, take prompt action thereon, and shall also, if necessary, surcharge the amount of any illegal payment on the person making or authorising it, and charge against any person responsible therefore, the amount of any deficiency or loss incurred due to the negligence or misconduct of such person or any amount which ought to have been, but is not, brought in to account by such person, and shall in every such case, certify the amount due from such person :

Provided that any person aggrieved by an order of payment of certified sums may appeal to the State Government whose decision on such appeal shall be final.

(9) Any person who willfully neglects, or refuses to comply with requisition made by the Auditor or the officer subordinate to him or refuses to comply with any order or direction given by the Board under sub-section (8), shall be liable for any legal action against him as may be considered necessary and appropriate by the Board of the Municipality.

67F. Audit Report. – (1) As soon as possible after the completion of audit of the accounts of the Municipality, but not later than the thirtieth day of September, every year, the Auditor shall prepared a report of the accounts audited and examined and shall send such report alongwith Test Audit Report of the C&AG to the Chief Municipal Officer.

(2) The auditor shall include in such report.-

(a) every payment which appears to the Auditor to be contrary to law ;

(b) the account of any deficiency or loss, which appears to have been caused by the gross negligence or misconduct of any person ;

(c) the account of any sum received which ought to have been, but has not been brought into account by any person ; and

(d) any other material impropriety or irregularity in the account.

67G. Placing of Audit Report :– (1) The Chief Municipal Officer shall place the audited financial statement, the balance sheet and the report of the Auditor and his comments together with test audit report of the C&AG thereon, before the Board of the Municipality.

(2) The Chief Municipal Officer shall remedy any defect that has been pointed out by the Auditor in his report.

67H. Submission of Audited Accounts. – (1) The Chief Municipal officer shall, after adoption of the financial statement, balance sheet and the report of the Auditor alongwith test audit report of the C&AG, by the Board of the Municipality at a meeting, forward the same to the State Government together with the report of the action taken thereon by the Municipality and shall also send copies of the same to the Auditor and C&AG.

(2) If there is any deference of opinion between the Auditor and the Municipality or if the Municipality does not remedy the defects or the irregularities mentioned in the Audit report within a reasonable period, the Auditor shall refer the matter to the State Government, whose decision thereon shall be final and binding".

Substitution of section 79

13. In the principal Act, for section 79, the following shall be substituted , namely :-

"79. Determination of Annual Value of holding.- The Annual Value of holding shall be determined in accordance with the procedure described below in section 79A, 79B, 79C, 79D and 79E respectively. In the said sections, unless there is any thing repugnant to the subject or context, the following terms shall bear the meaning respectively assigned to them against each:-

(i) "Annual rental value" means the rent that a holding is capable of fetching over a period of one year ;

(ii) "publish" means, to publish in one vernacular and in one English daily news paper predominantly in circulation in the notified area of the Municipality ;

(iii) "Commercial holding" means and include any holding or part of a holding which is used as shop, market, for display and sale of goods either whole sale or retail, office, storage and service facilities incidental to the sale of goods and located in the same holding shall be included under this group ;

(iv) "Industrial holding" means and include any holding or part of the holding or structure in which products or materials of all kinds and properties are fabricated, assembled or processed like assembly plants, laboratories, power plants, smoke house, refineries, gas plants, mills, dairies, factories etc."

Insertion of new sections 79A,79B 79C,79D and 79E

14. In the principal Act, after section 79, the following new sections shall be inserted, namely :-

"79A. Classification of holding.- (1) The holding within a Municipality shall be classified by the respective Board at a meeting of the concerned Municipality on the basis of the situation of the holding, use of the holding and the type of construction.

(2) Regarding situation of the holding, the following matters shall be considered:–

(i) Holding on the Principal Main Road ;

(ii) Holding on the Main Road ;

(iii) Holding other than clauses (i) and (ii) above.

(3) Regarding Use of the Holding, the following matters shall be considered :–

(i) Purely residential ;

(ii) Purely Commercial and Industrial, whether self owned or otherwise ;

(iii) Partly residential and partly commercial or industrial ;

(iv) All Holdings other than clauses (i) to (iii) above.

(4) Regarding type of construction, the following matters shall be considered :–

(i) Pucca building with RCC roof ;

(ii) Pucca building with Asbestos or Galvanized Corrugated Iron sheet as roofing material ;

(iii) All other buildings not covered under clauses (i) and (ii) above.

(5) Subject to the approval of the following committee, a Municipality may from time to time publish the list of Principal Main Roads and the Main Roads and if necessary modify the lists as may be decided by the committee. The committee shall consist of the following for each Municipality:-

(i) The Deputy Commissioner, as Chairman, in case of the Municipality is located within the area of a Sadar Sub-Division in a District, in other cases, the Sub-Divisional Officer (Civil) of the area, as Chairman ;

(ii) The Executive Engineer or an Assistant Executive Engineer of the Roads wing of the Public Works Department, Assam, within whose jurisdiction, the Municipality is located, as Member ;

(iii) The Executive Engineer or an Assistant Executive Engineer of the Buildings wing of the Public Works Department, Assam, within whose jurisdiction, the Municipality is located, as Member ;

(iv) The Chairman of the concerned Municipality, as Member;

(v) The officer of the Directorate of Town & Country Planning, functioning in the District / Sub-Division and within in whose jurisdiction the Municipality is located, as Member ;

(vi) The Revenue Circle Officer(s) of the Area constituting the notified area of a Municipality, as Member ;
(vii)The Vice- Chairman of the concerned Municipality, as Member- Secretary.

The same Committee will also function for the purpose of section 171 of the Act, subject to the bye laws framed in this regard.

79B. Methods of calculation of Carpet Area for commutation of Annual Rental Value of a Holding.- For the purpose of calculation of Annual Rental Value of a Holding, measurement of Carpet Area shall be calculated as under :-

(i) Rooms- Full measurement of Internal Dimension ;

(ii) Covered Verandah – Full measurement of Internal Dimension ;

(iii) Balcony / Corridor, Kitchen and Store- 50% measurement of Internal Dimension ;

(iv)Garage – 25% measurement of Internal Dimension ;

(v) Area covered by Bathroom, Latrine, Portico and stair case shall not form part of the Carpet Area.

79C. Power to fix the Rental Value and the Annual Rental Value. – (1) The rate of Rental Value per sq.ft. shall be fixed by the Board of the Municipality at a meeting, with prior approval of the Committee mentioned under section 79A.

(2) The Annual Rental Value shall be commuted at a multiple of the Carpet Area and the Rental Value fixed under sub-section (1), by the Board of the Municipality at a meeting, with prior approval of the Committee mentioned under section 79A.

(3) The Rental Value per sq.ft. of Carpet Area for different classes of holding shall be published from time to time by the Municipality with the approval of the Committee mentioned under section 79A .

79D. Rate of Tax.- Tax shall be assessed on the basis of Annual Rental Value at the following rates:-

(i) Holding Tax – At the rate of 2.5% of the Annual Rental Value ;

(ii) Water Tax – Subject to the provisions of sections 68 and 71 of this Act, at the rate of 2% of Annual Rental Value, other than the users' charge ;

(iii) Latrine Tax – Subject to the provisions of sections 68 and 72 of this Act, at the rate of 2% of Annual Rental Value.

79E. Power of Revision of Tax.- If any difficulty arises in giving effect to the Principle of fixation of the Annual Rental Value as per the provisions of this Act, the State Government shall have the power to review the same, on getting a report from the Executive Officer of the concerned Municipality".

Amendment of section 81

15. In the principal Act, in section 81, for the word "section", the word "sections" shall be substituted.

Amendment of section 83

16. In the principal Act, in section 83, -
(i) in sub section (1), in between the words "meeting" and "may", the following shall be inserted, namely :-
"with the approval of the committee mentioned under section 79A of this Act" ;
(ii) in sub-section (3), for the words "Chairman or Vice-Chairman", the words "Chairman and the Executive Officer" shall be substituted.

Amendment of section 96

17. In the principal Act, in section 96,-
(i) in sub-section (1), for the words occurring after the words "Committee", the words "mentioned under section 79A" shall be substituted ;
(ii) sub-section (2) shall be deleted ;
(iii) in sub-section (4), the words "or the Officer of the Government", occurring in between the words "committee" and "shall", shall be deleted ;
(iv) in sub-section (5), the words "or the Officer of the Government", occurring in between the words "committee" and "order", shall be deleted ;
(v) in sub-section (6), the words and punctuation mark "or of the officer of the Government," occurring in between the words "thereof" and "in", shall be deleted.

Amendment of section 97

18. In the principal Act, in section 97, the words "or Officer of the Government" occurring in between the words "committee" and "for", shall be deleted.

Amendment of section 171

19. In the principal Act, in section 171, in sub-section (1), for the existing provision, the following shall be substituted, namely:-

"Provided that in an area in respect of which an Authority has been constituted under the Assam Town and Country Planning Act, 1959, the power of giving sanction to erect, materially alter or re-erect any building shall be subject to issue of a No Objection Certificate by the concerned Authority to the Board".

Assam Act No.II of 1960

MOHD. A. HAQUE,
Secretary to the Government of Assam,
Legislative Department, Dispur.

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অসম ৰাজপত্ৰ

সত্যমেব জয়তে

THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্ত্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT : : : LEGISLATIVE BRANCH

NOTIFICATION

The 19th May, 2012

No. LGL 135/2003/84.– The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XII OF 2012

(Received the assent of the Governor on 14th May, 2012)

THE ASSAM MUNICIPAL (AMENDMENT) ACT, 2012

AN
ACT

further to amend the Assam Municipal Act,1956.

Preamble

Whereas it is expedient further to amend the Assam Municipal Act, 1956, hereinafter referred to as the principal Act, in the manner hereinafter appearing; Assam Act XV of 1957

It is hereby enacted in the Sixty-third Year of the Republic of India as follows :-

Short title, extent and commencement

1. (1) This Act may be called the Assam Municipal (Amendment) Act,2012.

(2) It shall have the like extent as the principal Act.

(3) It shall come into force at once.

Amendment of section 28

2. In the principal Act, in section 28, in sub-section (2), for the words "not less than half", the words "more than half" shall be substituted.

Amendment of section 38

3. In the principal Act, in section 38, in sub-section (1), in between the words "powers" and "of a", the words "except the financial power" shall be inserted.

Amendment of section 50

4. In the principal Act, in section 50, in sub-section (2), for the words "Local Self Government", the words "Urban Development" shall be substituted.

Amendment of section 68

5. In the principal Act, in section 68, in sub-section (1), after clause (g), the following new clause shall be inserted, namely :-
"(gg) licence fees in connection with trade and business;"

Substitution of section 76

6. In the principal Act, for section 76, the following shall be substituted, namely :-
"76. Preparation of list of holdings.- With a view to determining and imposing tax on the annual value of holdings under the provisions of this Act, every Municipal Board and Town Committee shall prepare a list of holdings within their respective area and update the same continuously."

Substitution of section 77

7. In the principal Act, for section 77, the following shall be substituted, namely:-
"77. Returns required for ascertaining annual value.- (1) The Chairman of the Municipal Board or Town Committee shall, with a view to determining the annul value of holdings in any ward and the person primarily liable for the payment of holding tax, by public notice require the owner or the occupier of such holding to furnish a return in such form, containing such detail as may be prescribed and within such time, not being less than thirty days from the date of publication of such notice.
(2) Every owner or the occupier as aforesaid shall be bound to comply with such notice and to furnish a return with a declaration that the statement made therein is correct to the best of knowledge and belief of such owner or occupier.

(3) Whoever omits to comply with such requisition shall, in addition to any penalty to which he may be liable, be precluded from objecting to any assessment made by the Municipal Board or Town Committee in respect of such holding under the provisions of this Act.

(4) The Chairman of a Municipal Board or a Town Committee may authorize any person in writing holding a Diploma in the Civil Engineering, as minimum qualification and having an experience of not less than 3 years as Junior Engineer, with giving a previous notice to the owner or the occupier of the holding to enter upon and make any inspection or survey and take measurement of such land or building with a view to verify the statement made in the return for such holding or for collecting the particulars referred to in sub section (1) in respect of such holding:

Provided that no such entry shall be made except between the hours of sunrise and sunset."

Substitution of section 78

8. In the principal Act, for the existing section 78, the following shall be substituted, namely :-

"78. Penalty for default in furnishing return.- Whoever refuses or fails to furnish any such return for the period of time as stipulated in sub-section (1) of section 77, or knowingly furnishes a false or incorrect return or description, shall be liable to a fine not exceeding two hundred rupees, and to a further fine of rupees fifty for each day during which he omits to furnish a true and correct return." .

Amendment of sections 79A, 172,173,177 and 179

9. In the principal Act, in the sections 79A, 172, 173, 177 and 179 for the words "bye laws", wherever they occur, the word "rules" shall be substituted.

Amendment of section 79D

10. In the principal Act, in section 79D, in clause (i), for the words "At the rate of ", occurring at the beginning, the words "Not less than" shall be substituted.

Insertion of of new sections 79F and 79G

11. In the principal Act, after section 79E, the following new sections shall be inserted, namely :-

"79F. Determination of taxes.- The rate of taxes determined in accordance with the provisions of this Act, shall be published by the respective Municipal Board / Town Committee by issuing a public notice within a period of three months from the date of coming into force of the Assam Municipal (Amendment) Act,2012. This determination shall remain valid for a period of five years. At the expiration of every five years new determination of rate of taxes shall take place and shall be published in the same manner as stipulated in this section.

Explanation:-For the purposes of this section the word "publish" shall have the same meaning as assigned to it under section 79(ii).

79G. Self assessment.- (1) After coming into force of the Assam Municipal (Amendment) Act,2012, every owner or occupier of any holding situated within the area of a Municipality or a Town Committee liable to pay tax, shall file a return of self assessment within six months from the date of the publication of rates of taxes or at a later date as may be fixed by the Board at a meeting not

(a) free passage or way in front of the building;
(b) space to be left about the building to secure free circulation of air and facilitate scavenging and for the prevention of fire;
(c) provision and position of latrines, urinals, cesspools or drains;
(d) level and the stability of the structure; and
(e) the line of frontage with neighboring building, if the building abuts on a public road;

(xxiv) regulate in respect of the erection, re-erection or material alteration of any building, within the Municipality or part hereof,

(a) the materials and method of construction to be used for external and partition walls, roofs and floors;
(b) the materials and method of construction and position of fire-places, chimneys, latrines, urinals, cess-pools and drains;
(c) the height and slope for the roof above the upper most floor upon which human beings are to live or cooking operations are to be carried on;
(d) the space to be left about the building to secure the free circulation of air and for the prevention of fire;
(e) the line of frontage where the building abuts on a public road;
(f) the number and height of the storeys of which the building may consist;
(g) the means to be provided for egress from the building in case of fire; and
(h) any other matter affecting the ventilation or sanitation of the buildings;

(xxv) prevent the erection of building without adequate provisions being made for the laying out and location or roads;

(xxvi) regulate the level, means of drainage, alignment and width of roads constructed by private persons."

Amendment of section 302

18. In the principal Act, in section 302, clauses (iii), (iv), (v), (vi) and (vii), shall be deleted and clauses (viii) to (xxx) shall be renumbered respectively as (iii) to (xxv).

MOHD. ABDUL HAQUE
Secretary to the Govt. of Assam,
Legislative Department, Dispur.

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